

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Sandra Jo Bruess,

BKY 14-34922-WJF

Debtor.

Chapter 7 Case

**NOTICE OF HEARING AND MOTION FOR LEAVE TO WITHDRAW
AS ATTORNEY FOR DEBTOR**

TO: The debtor, Michael S. Dietz, Chapter 7 Trustee, United States Trustee and all other parties entitled to notice under Local Rules 2002-1 and 9013-3.

Attorney Thomas F. Miller files this Notice of Motion and Motion to Withdraw as Attorney for debtor ("Motion") in this case upon the grounds set forth below and represents as follows:

1. The court will hold a hearing on the Motion **on Tuesday, December 18, 2018,** at **10:00 a.m.** before the Honorable William J. Fisher, Judge of Bankruptcy Court, Courtroom 2B, United States Courthouse, 316 North Robert Street, Saint Paul, Minnesota 55101.

2. Any response to this motion must be filed and served by **Thursday, December 13, 2018,** which is five (5) days prior to the time set for hearing (including Saturdays, Sundays and holidays) **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

3. This Court has jurisdiction over the Motion or this motion is authorized under 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This Chapter 7 case was commenced on December 15, 2014 and the debtor's First Meeting of Creditors was held on January 7, 2015. The court issued a discharge order in the

debtor's favor on April 8, 2015. This case was formally closed on January 18, 2017 and an order reopening the case was entered on November 7, 2018. This case is now pending in this Court.

4. This motion arises under 11 U.S.C. §§ 105, 329 and §521, Bankruptcy Rule 9010 and Local Rule 9010-3.

BASIS FOR MOTION

5. It is not clear whether the undersigned, and Mr. Behm, are still counsel of record. Under the general law of attorney-client, the engagements would be deemed terminated at the time the legal matter was resolved, here when the case was closed over one and one-half years ago. This motion is being brought for the sake of full disclosure and certainty.

6. Debtor needs representation in the reopened case in order to protect her interests with respect to certain legal claims described in the "Motion for Leave to Withdraw as Attorney of Record" filed by co-counsel Stephen J. Behm as docket 85.

7. Debtor's attorney in the civil claims, Keith D. Johnson, Esq., has indicated unequivocally in an email that the debtor will not be consulting the undersigned in any capacity going forward in this case. The debtor has thus effectively terminated representation.

8. New counsel for the debtor has filed a notice of appearance in this case as docket 86.

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WHEREFORE, the undersigned requests the court to enter an Order as follows:

1. Allowing Thomas F. Miller and Thomas F. Miller, P.A. to withdraw their representation of the debtor in the above-captioned matter.
2. For such other and further relief as the court deems just and equitable in the premises.

THOMAS F. MILLER, P.A.

Dated: November 30, 2018

By: /e/ Thomas F. Miller
Thomas F. Miller, Lic. No. 73477
1000 Superior Blvd., Suite 303
Wayzata, MN 55391
Tel.: (952) 404-3896
Fax: (952) 404-3893
Email: Thomas@Millerlaw.com
Attorney for Debtor

VERIFICATION

I, Thomas F. Miller, attorney named in the foregoing Notice of Hearing and Motion to Withdraw as Attorney for Debtor, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

/e/ Thomas F. Miller
Thomas F. Miller

UNITED STATES BANKRUPTCY COURT
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MEMORANDUM OF LAW

This bankruptcy court is a “unit” of the United States District Court for the District of Minnesota. 28 U.S.C. § 151. Its regulation of attorneys who appear before it derives from the local rules of the district court.

The District of Minnesota looks to the Minnesota Rules of Professional Conduct with respect to attorney conduct and discipline. Local Rule 83.6.

The Minnesota Rules of Professional Conduct provide in part:

RULE 1.16: DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c) [concerning approval by the tribunal], a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

* * * (3) the lawyer is discharged.

For this reason withdrawal is appropriate, and mandatory. Inasmuch as the client has already secured new counsel, there will be no prejudice to the client. Minn.R.Prof.Resp. 1.16(d).

Respectfully submitted,

Dated: November 30, 2018

THOMAS F. MILLER, P.A.

By: /e/ Thomas F. Miller

Thomas F. Miller, Lic. No. 73477

1000 Superior Blvd., Suite 303

Wayzata, MN 55391

Tel.: (952) 404-3896

Fax: (952) 404-3893

Email: Thomas@Millerlaw.com

Attorney for Debtor

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:	Bankruptcy No. 14-34922
Sandra Jo Bruess,	Chapter 7
Debtor.	

UNSWORN CERTIFICATE OF SERVICE

I, the undersigned Thomas F. Miller, hereby declare under penalty of perjury that on November 30, 2018, I caused the following documents to be filed and served via the CM/ECF system: **Notice of Hearing and Motion for Leave to Withdraw as Attorney for Debtor and Verification, Memorandum of Law and proposed Order**, thereby generating electronic service by CM/ECF on those electronic addresses below, pursuant to Local Rule 9013-2:

United States Trustee, Region 12, CM/ECF, ustpreion12.mn.ecf@usdoj.gov
Michael S. Dietz, mdietz@dunlaplaw.com
Michael R. Fadlovich, Michael.fadlovich@usdoj.gov
Margie R. Bodas, Margie@lommen.com
Erin A. Collins, eac@dunlaplaw.com
Roger H. Hippert, hh-nhltd@comcast.net, rhip99@hotmail.com
Stephen Behm, Stephen@mankatobankruptcy.com
Andrea M. Hauser, ahauser@losgs.com

And I mailed copies to each of the persons named below at the address stated for each by first class mail postage prepaid:

Estate of Donn Clem Bruess
c/o Steven M. Bruess
2686 Town Road 403 W
International Falls, MN 56649

William E. Bruess and Steven M. Bruess
c/o Steven M. Bruess
2686 Town Road 403 W
International Falls, MN 56649

Keith D. Johnson, Esq.
Law Office of Keith D. Johnson, PLLC
Union Plaza Suite 415
333 Washington Ave. N.
Minneapolis MN 55401
And by email to: kjohnson@wj.com

THOMAS F. MILLER, P.A.

Dated: November 30, 2018

By: /e/ Thomas F. Miller
Thomas F. Miller, Lic. No. 73477
1000 Superior Blvd., Suite 303
Wayzata, MN 55391
Tel.: (952) 404-3896
Fax: (952) 404-3893
Email: Thomas@Millerlaw.com
Attorney for Debtor

UNITED STATES BANKRUPTCY COURT
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ORDER APPROVING WITHDRAWAL OF ATTORNEY

At Saint Paul, Minnesota, December 18, 2018.

Based upon the Motion for Leave to Withdraw as Attorney for Debtor that was filed on November 30, 2018, by the debtor's attorney, and all of the documentation and records available to this Court;

IT IS HEREBY ORDERED: That attorney Thomas F. Miller and Thomas F. Miller, P.A. shall be allowed to withdraw as counsel for the debtor in the above-captioned matter.

William J. Fisher
Judge of Bankruptcy Court